

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 0412164 MLW

ERIC SOUVANNAKANE,
Plaintiff

v.

SEARS ROEBUCK & CO., WILLIAM SULLIVAN
RICHARD SPELLMAN, BARBARA TAGLIARINO,
KEVIN SULLIVAN, ALICIA COVIELLO,
GARY MANSFIELD,
Defendants

DEFENDANT GARY MANSFIELD'S MOTION FOR SUMMARY JUDGMENT

Now comes the Defendant, Gary Mansfield, in the above captioned case, and hereby moves this Honorable Court pursuant to Fed. R. Civ. P. 56 to enter Summary Judgment in his favor and against the Plaintiff on all counts of the Complaint against him. As grounds for this Motion, the Defendant states that:

- A. Plaintiff's claim for conspiracy under 42 U.S.C. § 1985 fails:
 - 1. No conspiracy existed
 - 2. No discriminatory animus motivated defendant mansfield or others
 - 3. No interference with the state court administration of justice occurred
 - 4. No intent to deprive plaintiff of equal protection;
- B. The neglect to prevent a conspiracy claim under 42 U.S.C. § 1986 must fail because it requires a valid underlying § 1985 claim and Officer Mansfield had no actual knowledge of a conspiracy;
- C. The claim under 42 U.S.C. § 1981 fails because there was no existing or proposed contract

which Plaintiff sought to "make or enforce," and no evidence of any race based discrimination;

- D. The Plaintiff's other civil rights claims were properly dismissed;
- E. The Defendant is entitled to qualified immunity because his conduct was objectively legally reasonable.

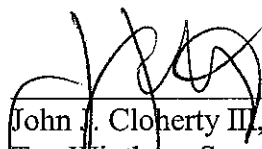
As further grounds for the Motion, the Defendant submits the accompanying Memorandum of Law, and Concise Statement of Material Facts as to which there is No Genuine Issue to be Tried, together with Exhibits, incorporated by reference herein.

WHEREFORE, the Defendant respectfully requests this Honorable Court enter Summary Judgment in favor of Defendant and against Plaintiff as to all counts of Plaintiff's complaint along with such other relief this Court deems just and proper.

Respectfully Submitted,

The Defendant,
GARY MANSFIELD
By his Attorneys,

PIERCE, DAVIS & PERRITANO, LLP



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CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon each attorney of record, or pro se litigant, by electronic mail.

1/5/07
Date 